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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

FONTENOT, NIGEL RAI

ART UNIT

PAPER NUMBER

3768

MAIL DATE

DELIVERY MODE

10/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,749	Applicant(s) BOOSTEN, MARCEL	
	Examiner NIGEL FONTENOT	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/19/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the Arguments/Amendments filed August 4, 2009.

Claims 1-17 have been canceled. Newly added claim 18-35 have been entered.

Claims 18-35 are now pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 27-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 27 recites "a method for controlling an interventional procedure in an organ of a patient comprising: ...providing an interventional device...providing an imaging unit...providing a computing unit configured to carry out the steps...providing a user interface arranged to display..." Claim 27 does not positively recite a step for controlling an interventional procedure in an organ of a patient, thus rendering the claims indefinite. Claim 27 recites "providing a computing unit configured to carry out controlling the navigation system to apply the navigational correction to the position of the displaceable catheter", but does not positively recite controlling the procedure.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Strommer et al. (US 2005/0033149).

3. Addressing claims 18 and 27, Strommer discloses a system and method for controlling an interventional procedure in an organ of a patient (see abstract) comprising: an intervention device comprising detectable markers positioned within the target organ, a displaceable catheter, and a stereotactic navigation system to position the detectable markers and displaceable catheter (see para 83); an imaging unit arranged to acquire images of the target organ along with the detectable markers and the displaceable catheter (see paras 96-102); a computing unit configured to carry out the steps calculating a motion-corrected organ-oriented three-dimensional coordinate system based on the images (see paras 96-102); generating a spatial roadmap representing an envisaged trajectory of the displaceable catheter within the coordinate system by interrelating the spatial positions of the detectable markers with interactive

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user input to alter or redraw the roadmap (see paras 96-102), monitoring the spatial position of the displaceable catheter; determining a discrepancy between the spatial position of the displaceable catheter and the roadmap and calculating a navigational correction (see paras 43 and 96-102); and controlling the navigation system to apply the navigational correction to the position of the displaceable catheter (see paras 96-102); and a user interface arranged to display images of the target organ, the spatial position of the detectable markers, the displaceable catheter, and the roadmap (see paras 96-102); and a control screen displaying the correction to be applied to the navigation system and accepting interactive user input for the correction (see paras 96-102).

4. Addressing claims 19-26 and 28-35, Strommer discloses the computing unit configured to carry out the steps: monitoring the spatial position of the detectable markers; determining a displacement of a detectable marker; recalculating the roadmap based on the displacement; and sending a signal to the navigation system to automatically position the displaceable catheter (see paras 96-102), further comprising an imaging unit arranged to acquire high resolution images (see para 71), further comprising the imaging unit employing an X-ray beam or magnetic resonance acquisition (see para 71), further comprising an imaging unit arranged to acquire images by rotational scan of an X-ray source around the target organ (see para 71), the intervention device further comprising a catheter adapted to measure cardiac action potentials within the target organ (see paras 84-87), wherein the roadmap is arranged to represent a burning path for an ablating catheter (see para 56), sending a signal to warn

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the operator of a change in configuration of the detectable markers (see paras 96-102), further comprising the user interface arranged to display actual electrical activity of tissue of the target organ (see paras 84-87).

Response to Arguments

5. Applicant's arguments with respect to claims 18-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIGEL FONTENOT whose telephone number is (571)270-7032. The examiner can normally be reached on Monday-Friday (7:00a-4:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. F./
Examiner, Art Unit 3768

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768